IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

WP(C).No. 3293 of 2006(P)

PETITIONER:

INDIRA.K.S., PART TIME CASUAL SWEEPER,
VILLAGE OFFICE, EDAKUNNAM P.O.,
KOTTAYAM DIST.

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT, DEPARTMENT OF REVENUE,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR,
KOTTAYAM.

3. THE TAHSILDAR,
KANJIRAPPALLY.

4. THE VILLAGE OFFICER,
EDAKUNNAM.

BY GOVERNMENT PLEADER SRI. P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 18/07/2007, ALONG WITH WPC NO. 3288/2006 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 3293/2006 P

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE CERTIFICATE DT. 10/3/05.

EXT.P2. COPY OF THE JUDGMENT DT. 2/6/03 IN OP NO. 8274/03.

EXT.P3. COPY OF THE JUDGMENT DT. 12/08/05 IN WA NO. 95/05.

EXT.P4. COPY OF THE ORDER DT. 1/11/03.

EXT.P5. COPY OF THE GO P NO. 361/05 DT. 2/08/05.

EXT.P6. COPY OF THE GO P NO. 501/05 DT. 25/11/05.

RESPONDENT'S EXHIBITS **NIL**

True copy

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K.BALAKRISHNAN NAIR, J.

W.P.(C) Nos. 3288 of o2006-N &3293 of 2006-P

Dated this the 18th day of July, 2007.

J U D G M E N T

W.P.(C) 3293 of 2006:

The petitioner is a part time sweeper, attached to the office of the 4th respondent. Though, she was a casual employee, her claim for salary payable to the part time regular employees was upheld by this court, by Ext.P2 judgment. The petitioner submits, the said decision was affirmed by the Division Bench also. Later, the Government issued Ext.P6 order containing new norms for computing the sweeping area of part time sweepers. It is common case that before the issuance of the Government Order, in the light of the norms then prevailing, the sweeping area of the petitioner was above 100 square metres and therefore she was entitled to get the basic pay at the rate of Rs.1,250+DA. As per Ext.P6 Government Order, if the sweeping area is below 100 square metres, a casual sweeper will get monthly pay of Rs.600/- and therefore, the petitioner was paid salary only at the rate of Rs.600/- per month. The petitioner admits, the salary payable to her as per the pre-revised norms was already paid upto 25-11-2005. After the said date, she is being paid Rs.600/-. Relying on clause 11 of Ext.P6, the petitioner claims that she is entitled to get the salary that was being paid to her as on the date of issuance of Ext.P6. This writ

petition is filed seeking mainly the said relief.

2. The third respondent has filed a counter affidavit opposing the prayers in the writ petition.

3. Heard the learned counsel on both sides. Clause 11 of Ext.P6 reads as follows:

> 11.The guidelines at Appendix shall also be applied to offices which already have part-time contingent sweepers. If, consequent to the re-fixation of the area in such offices in accordance with the guidelines, the sweeping area increases from below 400 mtrs. to above 400 mtrs., the part-time sweeper concerned shall be entitled to the higher remuneration of Rs.1500 plus D.A., but with effect from the date of the Government Order only. If the area reduces from above 400 mtrs. to below 400 mtrs, the remuneration of the particular par-time sweeper shall not be reduced from Rs.1500 plus DA. The existing incumbent shall continue to get what he was getting. But the employee posted against the next vacancy should be given wage as per the rules. If, on fixation, the sweeping area reduces from above 100 sq. mtrs. to below 100 sq. mtrs., the remuneration of the existing part-time sweeper, if he is getting Rs.1250 p.m. plus D.A., shall not be reduced. He shall continue to get what he was getting. Here also, the next vacancy in the post should be filled up by a casual sweeper only, by paying Rs.600 per month.

4. Going by the above clause, the petitioner is entitled to get the salary she was drawing prior to the issuance of Ext.P6 Government Order even if the sweeping area is reduced to less than 100 square metres. In the light of the norms contained in the said Government Order, only the new incumbent who may be posted in the place of the petitioner will be affected .

In view of the above position, the petitioner is entitled to succeed. Accordingly, the Writ Petition is allowed declaring that the petitioner shall be paid the basic pay of Rs.1250+DA with effect from 25-11-2005. The arrears of salary payable from the said date shall be released to the petitioner, after deducting the amount already paid, within two months from the date of receipt of a copy of this judgment.

W.P.(C) 3288 of 2006:

The case of the petitioner herein is identical to the case of the petitioner in W.P.(C) 3293 of 2006. Accordingly, the Writ Petition is allowed. It is declared that the petitioner is entitled to get the benefit of clause 11 of Ext.P5 Government Order. The petitioner shall be continue to be paid the salary which was being paid to her upto 25-11-2005 even after the said date, even if the sweeping area is reduced below 100 square metres, according to the revised norms in the said Government Order. The arrears in this regard shall be paid to the petitioner after deducting the amounts already paid, within two months from the date of production of a copy of this judgment.

The Writ Petitions are disposed of as above.

K.BALAKRISHNAN NAIR,
JUDGE.

MS